

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Markeletta Wilson, et al.,

Plaintiff,

v.

Seattle Housing Authority, et al.

Defendant.

CASE NO. 2:09-cv-00226-MJP

ORDER ON MOTION FOR LEAVE
TO FILE FOURTH AMENDED
COMPLAINT

The above-entitled Court, having received and reviewed

1. Plaintiffs' Motion for Leave to Amend Third Amended Complaint (Dkt. No. 88)
2. Federal Defendants' Response to Plaintiffs' Motion for Leave to Amend Third Amended Complaint (Dkt. No. 89)
3. Seattle Housing Authority Defendants' Response to Plaintiffs' Motion for Leave to Amend Third Amended Complaint (Dkt. No. 90)
4. Reply in Support of Plaintiffs' Motion for Leave to Amend Third Amended Complaint (Dkt. No. 91)

and all attached declarations and exhibits, makes the following ruling:

1 IT IS ORDERED that the motion is GRANTED.

2 Plaintiffs served Defendant Seattle Housing Authority (SHA) with discovery in May
3 2010, but received nothing back from SHA until October (following a court order). Based on
4 that discovery, Plaintiffs state that they are now aware that (contrary to what SHA claimed
5 previously) there is no proof that Defendant Department of Housing and Urban Development
6 (HUD) had specifically approved of SHA's Administrative Plan. Plaintiffs wish to withdraw
7 that part of their claims against HUD (while preserving the claim that HUD promulgated
8 unconstitutional regulations which form the basis of SHA's assisted household procedures).

9 Plaintiffs have already alleged (in their Third Amended Complaint) that SHA's refusal to
10 allow children to be added to a Section 8 household unless provided with legal custody
11 documentation violates the Fair Housing Act and the Washington Law Against Discrimination
12 (WLAD). Now they wish to add that claim for a proposed new "Assisted Families" class,
13 described as

14 All people whom the defendants, SHA and Thomas Tierney, have required or will
15 require to show proof that they have court approved legal custody of any children
16 *with whom they live at the time they seek admission to the Voucher or Public*
17 *Housing programs or at any time after being admitted to either program and all*
18 *people who have sought or will seek to add a person related by blood or by close*
19 *familial relation to any household assisted by SHA (hereinafter "Assisted*
20 *Families Class")*

21 Proposed Fourth Amended Complaint, Ex. 1, ¶ 3.5(a) (revision to previous complaint italicized).

1 The revised claim adds (1) an additional factual scenario (the addition of a “person
2 related by blood or by close familial relation” to an assisted household) and (2) an additional
3 subclass of applicants for Section 8 housing (“at the time they seek admission to” housing).
4 HUD has no objection as long as their pending summary judgment is permitted to apply to the
5 amended complaint and it does not affect their noting date – Plaintiffs are agreeable to both
6 conditions.

7 SHA does not object to the HUD revision or the additional factual scenario of requests to
8 add persons related by blood to an assisted household. They do object to the addition of an
9 “applicants” subclass on the grounds that Plaintiff Townes was a Section 8 voucherholder and
10 therefore has no standing to prosecute claims for housing “applicants.”

11 Plaintiffs’ position is that, whether one is an applicant or a voucherholder, the policy is
12 the same and is illegally applied to both. Ninth Circuit precedent is cited for the proposition that
13 ... it is not necessary that all questions of fact and law be common to satisfy
14 [FRCP 23]. [Instead], the existence of shared legal issues with divergent factual
predicates is sufficient...

15 Rodriguez v. Hayes, 591 F.3d 1005, 1122 (9th Cir. 2010)(quoting Hanlon v. Chrysler Corp., 150
16 F.3d 1011, 1019 (9th Cir. 1998). The Court agrees that, on that basis, Townes has standing to
17 raise the claim for voucherholders and applicants. Defendants are free to challenge her adequacy
18 as a class representative at the certification stage of the litigation.

19 Plaintiffs will be permitted to file their Fourth Amended Complaint. Defendant HUD’s
20 pending summary judgment motion will go forth as noted and be considered in light of the new
21 complaint.

1 The clerk is ordered to provide copies of this order to all counsel.

2 Dated January _4_, 2011.

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5 Marsha J. Pechman
6 United States District Judge
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